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MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE, IL 60532

In re Application of :
Hsieh : DECISION REFUSING STATUS
Application No. 10/650,022 : UNDER 37 CFR 1.47(b)
Filed: August 27, 2003 :
Atty. Dkt. No.: A3-098 US :
For: ELECTRICAL POWER JACK :
:

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OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(b), filed November 1, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 27, 2003 without an executed oath or declaration and naming Guang-Rung Hsieh as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed October 14, 2004. The Notice required an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition lacks requirements (1) and (5) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor cannot be reached or located. Petitioner merely states the inventor is no longer employed by Molex Taiwan and that a letter was sent to the inventor.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners herein have failed to provide proof of any efforts made to locate the non-signing inventor.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a diligent effort was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

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By facsimile: (703) 872-9306

By hand: U.S. U.S. Patent and Trademark Office
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Questions regarding the content of this decision may be directed to
the undersigned at (571) 272-3205.



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Office of Petitions